REMARKS

The present application was filed on September 10, 2003 with claims 1-26. Claims 1-26 remain pending. Claims 1, 25 and 26 are the pending independent claims.

In the outstanding final Office Action dated August 5, 2005 the Examiner: (i) rejected claims 1-26 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3 and 5 of U.S. Patent No. 6,502,062 (hereinafter "Acharya") in view of U.S. Patent No. 5,261,099 (hereinafter "Bigo"); and (ii) rejected claims 1-4, 18, 25 and 26 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,434,589 (hereinafter "Lin") in view of Bigo.

In this response, Applicants traverse the double patenting and §103(a) rejections. Applicants respectfully request reconsideration of the present application in view of the following remarks.

Applicants acknowledge the indication of allowable subject matter in claims 5-17 and 19-24.

With regard to the rejection of claims 1-26 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3 and 5 of Acharya in view of Bigo, Applicants assert that claims 1-26 recite elements of the present invention that are not described or suggested by the combination of these references.

Independent claim 3 of Acharya recites a method for scheduling the servicing of job requests in a point-to-point communication system. Dependent claim 5 of Acharya recites the storing of job requests in a queue corresponding to the local channel server, and the determining of an adaptive schedule for servicing the job requests in the queue.

Bigo discloses an interrupt program that receives information and stores it into a data buffer for processing by a main program. The interrupt program generates an interrupt signal that stops the execution of a main program, which is working on previously received information, in order to give control to the interrupt program. At the end of the interrupt program, the main program restarts execution from the breakpoint.

Independent claim 1 of the present invention recites a method for scheduling responses in a point-to-point communication system. A plurality of job requests are received at a central server. An adaptive schedule is determined for transmitting data responsive to the job requests. When the servicing of a first job request is interrupted, an unserviced portion of the data is returned from a channel server to the central server, and the unserviced portion is serviced via a second channel. A second job request is then serviced via the first channel in accordance with an updated schedule.

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While Acharya recites a method for scheduling the servicing of job requests, and Bigo discloses an interrupt signal which stops the execution of a main program, the proposed combination fails to teach or suggest that when a first job request on a first channel is interrupted, an unserviced portion of the data is subsequently serviced via a second channel, allowing the second job request to be serviced via the first channel in accordance with an updated schedule.

The Examiner, at page 6, section 16, of the final Office Action, contends that these elements are described in column 1, line 65 through column 2, line 2, and column 4, lines 29-48 of Bigo. These portions of Bigo describe the use of an interrupt program to stop execution of a main program, give control to the interrupt program, and restart execution of the main program from a breakpoint upon completion of the interrupt program. However, Bigo fails to relate to the adaptive scheduling of job requests in a point-to-point system, as well as the transmission of data responsive to job requests via k channels. Thus, Applicants maintain that the mere description of an interrupt program and a "break point" fails to provide sufficient disclosure to sustain an obviousness rejection of an element reciting the subsequent servicing of an unserviced portion of data via a second channel.

Additionally, Bigo teaches directly away from the servicing of an unserviced portion of data via a second channel by stating, in column 4, lines 33-35, that "[a]t the end of the segment initiated by the Interrupt program, the Main program restarts the execution from the break point." Therefore, Bigo not only fails to disclose the servicing of an unserviced portion of a first job request via a second channel, but also implies the use of a single resource in executing programs since the main program is only described as restarted when the interrupt program is completed.

Furthermore, contrary to the remarks of the Examiner, Applicants point out that the burden is on the Examiner to prove that the "break point" concept in Bigo teaches or suggests the servicing of an unserviced portion of data via a second channel, since Bigo fails to relate to the transmission of data responsive to job requests via k channels, and fails to disclose transmission over a second channel.

Applicants assert that claims 2-26 are patentable for at least the reasons identified above with regard to independent claim 1. Accordingly, withdrawal of the double patenting rejection of claims 1-26 is respectfully requested.

With regard to the rejection of claims 1-4, 18, 25 and 26 under 35 U.S.C. §103(a) as being unpatentable over Lin in view of Bigo, Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness, in that the collective teachings of Lin and Bigo fail to meet the claim limitations.

Applicants assert that the collective teachings of Lin and Bigo, assuming for purposes of argument that these references are combinable, fail to disclose techniques described in independent claims 1, 25 and 26 of the present invention.

Lin discloses a computer-based method of scheduling a first job for processing by a resource. Resources capable of processing the first job are identified, and a second job is selected for rescheduling from the jobs currently being processed by the identified resources. The first job is scheduled for processing by the resource currently processing the second job and the second job may be rescheduled for processing by resources other than the identified resources.

The Examiner admits that <u>Lin fails to teach that "the servicing of a first job request via a first channel is interrupted, an unserviced portion of said data is returned from a local channel server to said central server, and said unserviced portion is subsequently serviced via a second channel</u> so as to service a second job request via said first channel in accordance with an updated schedule." The Examiner contends that Bigo remedies those deficiencies found in Lin.

Thus, Applicants assert that this rejection suffers from the same deficiencies described above with regard to the double patenting rejection. Although the Examiner contends that those elements of the independent claims that are not disclosed in Lin may be found in column 1, line 65 through column 2, line 2, and column 4, lines 29-48 of Bigo, Applicants assert that Bigo fails to disclose an unserviced portion of data subsequently being serviced via a second channel. Thus, <u>Bigo fails to disclose the interruption of the servicing of a first job request via a first channel, the returning of an unserviced portion of the data from a local channel server to a central server, and the subsequent servicing of the unserviced portion via a second channel</u> so as to service a second job request via a first channel in accordance with an updated schedule, as recited in the independent claims of the present invention. Therefore, the proposed combination of Lin and Bigo fails to disclose each limitation of the present invention as recited in independent claims 1, 25 and 26.

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Applicants assert that dependent claims 2-4 and 18 are patentable at least by virtue of their dependency from independent claim 1. Dependent claims 2-4 and 18 also recite patentable subject matter in their own right. For example, with regard to claim 2, the Examiner directs Applicants to portions of Lin describing a job scheduling system, but fails to disclose the servicing of job requests via a plurality of local channel servers. Accordingly, withdrawal of the §103(a) rejection of claims 1-4, 18, 25 and 26 is respectfully requested.

In view of the above, Applicants believe that claims 1-26 are in condition for allowance, and respectfully request withdrawal of the double patenting and §103(a) rejections.

Respectfully submitted,

Date: November 7, 2005

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Enclosure: Notice of Appeal